

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA AND)	
MILDRED PATRICK, REVENUE OFFICER)	
OF THE INTERNAL REVENUE SERVICE,)	
)	
Plaintiffs,)	
)	
v.)	CIVIL ACTION NO.
)	
ZACHARY GUTMAN,)	
)	
Defendant.)	

COMPLAINT TO ENFORCE
INTERNAL REVENUE SUMMONS

For their Complaint, the United States of America and Mildred Patrick, Revenue Officer of the Internal Revenue Service, by their attorneys, allege as follows:

I.

This is a proceeding brought under authority of I.R.C. § 7604(a), (26 U.S.C. § 7604 (a)), to enforce judicially an Internal Revenue Summons issued pursuant to Section 7602 to enable Plaintiffs to prepare a Collection Information Statement for Academy Air HVAC LLC, for the period ending September 1, 2010 through February 21, 2011.

II.

Plaintiff Revenue Officer is authorized to issue Internal Revenue Summonses pursuant to Section 7602.

III.

The address of the Defendant, Zachary Gutman, hereinafter ("Defendant") is 9457 Old New Town Road, Philadelphia, Pennsylvania 19115, such address being within the jurisdiction of this Court.

IV.

Plaintiff Revenue Officer is presently conducting an investigation with respect to the collection of the outstanding FICA and Withholding tax liabilities (Forms 941) of Academy Air HVAC LLC for the taxable periods ended September 30, 2008, March 31, 2010, June 30, 2010 and September 30, 2010.

V.

On February 22, 2010, a copy of a Summons was served upon the Defendant, by Plaintiff Revenue Officer, by leaving a copy at his last and usual place of abode. The Summons directed the Defendant to appear on the 16th day of March, 2011 at 9:30 A.M. at the office of the Internal Revenue Service, 600 Arch Street, Room 1040, William Green Federal Building, Philadelphia, Pennsylvania 19106-1611, to testify and produce certain documents and records necessary to prepare a Collection Information Statement for the period ending September 1, 2010 through February 21, 2011, as is more fully set forth in the Summons. A copy of the Summons served upon the Defendant is attached hereto

and incorporated herein as Exhibit 1.

VI.

The Defendant did not appear on March 16, 2011. The Declaration of Plaintiff Revenue Officer reciting the failure to comply with the Summons is attached hereto and incorporated as Exhibit 2.

VII.

It was and continues to be essential to the collection of the outstanding FICA and Withholding tax liabilities (Forms 941) of Academy Air HVAC LLC for the taxable periods ended September 30, 2008, March 31, 2010, June 30, 2010 and September 30, 2010, that the Defendant be required to testify and produce those records and documents demanded by the Summons, which are not in the possession of the Plaintiffs.

VIII.

As indicated above, the investigation is being conducted for a legitimate purpose and the information sought may be relevant to that purpose. The Plaintiffs have complied with the administrative procedures required by the Internal Revenue Code of 1986, as amended.

WHEREFORE, Plaintiffs respectfully pray:

1. That this Court enter an Order directing the Defendant to show cause why he should not comply with and obey the afore-

mentioned Summons in each and every requirement thereof.

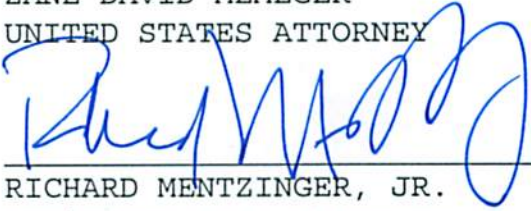
2. That the Court enter an order directing the Defendant to obey the aforementioned Summons in each and every requirement thereof and to order that he testify, produce the books, records and other information as called for by the summons before Plaintiff Revenue Officer or any other properly designated officer of the Internal Revenue Service.

3. That the United States recover its costs in maintaining this action.

4. That the Court render such other and further relief as is just and proper.

RESPECTFULLY SUBMITTED,

ZANE DAVID MEMEGER
UNITED STATES ATTORNEY



RICHARD MENTZINGER, JR.
Assistant U.S. Attorney



Summons

Collection Information Statement

In the matter of ACADEMY AIR HVAC LLC, 9454 LANSFORD ST, PHILADELPHIA, PA 19114-2626
 Internal Revenue Service (Identify Division) SMALL BUSINESS/SELF EMPLOYED
 Industry/Area (Identify by number or name) SB/SE AREA 2 (22)
 Periods: Form 941 for the quarterly periods ending September 30, 2008, March 31, 2010, June 30, 2010 and September 30, 2010

The Commissioner of Internal Revenue

To: ZACHARY GUTMAN
 At: 9454 LANSFORD ST, PHILADELPHIA, PA 19114-2626

You are hereby summoned and required to appear before MILDRED PATRICK, an Internal Revenue Service (IRS) officer, to give testimony and to bring for examination the following information related to the collection of the tax liability of the person identified above for the periods shown:

All documents and records you possess or control regarding assets, liabilities, or accounts held in the taxpayer's name or for the taxpayer's benefit which the taxpayer wholly or partially owns, or in which the taxpayer has a security interest. These records and documents include but are not limited to: all bank statements, checkbooks, canceled checks, saving account passbooks, records or certificates of deposit for the period:

From 09/01/2010 To 02/21/2011

Also include all current vehicle registration certificates, deeds or contracts regarding real property, stocks and bonds, accounts, notes and judgments receivable, and all life or health insurance policies.

IRS will use this information to prepare a Collection Information Statement. We have attached a blank statement to guide you in producing the necessary documents and records.

Do not write in this space

Business address and telephone number of IRS officer before whom you are to appear:

600 ARCH STREET, PHILADELPHIA, PA 19106-1611 (215) 861-1479

Place and time for appearance: At 600 ARCH STREET ROOM 1040, WILLIAM GREEN FEDERAL BUILDING, PHILADELPHIA, PA 19106-1611



on the 16th day of March, 2011 at 9:30 o'clock a m.

Issued under authority of the Internal Revenue Code this 22nd day of February, 2011

Department of the Treasury
Internal Revenue Service

www.irs.gov

Form 6637 (Rev.10-2010)
Catalog Number 25000Q

MILDRED PATRICK

Signature of issuing officer

REVENUE OFFICER

Title

Signature of approving officer (if applicable)

Title





Certificate of Service of Summons

(Pursuant to section 7603, Internal Revenue Code)

I certify that I served the summons shown on the front of this form on:

Date

2/22/11

Time

12:47 pm

How

☐

I handed an attested copy of the summons to the person to whom it was directed.

Summons

Was

☒

I left an attested copy of the summons at the last and usual place of abode of the person to whom it was directed. I left the copy with the following person (if any).

Served

taped to door

Signature

Mildred Patrick

Title

Revenue Officer

I certify that the copy of the summons served contained the required certification.

Signature

Mildred Patrick

Title

Revenue Officer

Paragraph (3) above on the defendant, Zachary Gutman, by leaving a copy at his last and usual place of abode, as evidenced in the certificate of service on the reverse side of the summons.

5. On March 16, 2011, the defendant, Zachary Gutman, did appear but refused to comply with the summons. The defendant's refusal to comply with the summons continues to the date of this declaration.

6. The books, papers, records, or other data sought by the summons are not already in the possession of the Internal Revenue Service.

7. All administrative steps required by the Internal Revenue Code for issuance of a summons have been taken.

8. As of the date that the summons was issued and served, and as of the day I signed this declaration, there was no Department of Justice referral, as defined by 26 U.S.C. §7602(c), with respect to Zachary Gutman.

9. It is necessary to obtain the testimony and to examine the books, papers, records, or other data sought by the summons in order to properly collect the federal tax liabilities (Forms 941) of Academy Air HVAC LLC for the taxable period(s) ended: September 30, 2008, March 31, 2010, June 30, 2010 and September 30, 2010. This investigation is being conducted for a legitimate purpose and the information may be relevant for that purpose.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 27 day of June, 2011.


MILDRED PATRICK
Revenue Officer